App.F VI.A

Proposal

1925.

File No. 66-25

Previous References

mmrl)

Serial Nos. 18219

Later references.
mrl 66-25 ff V3 & 26

GENERAL AND REVENUE SECRETARIAT.

Serial Nos.

Part B for April 26.

SUBJECT

Proposal for the election of mr. S. Basappa, as Vice President of the Chamarajanagar Town Municipal Council.

19 Jo, The Deputy Commissioner, Mysore.
No. L 6369/d 7.4.26.

Requests that a fresh election for the election of a Vice President may be held

7.5.26.

the Amildar-President in charge of the Taluk was - -

opposed

NOTE—Contn. Sheet

WD 01264—GPB—40,000—17-12-25

General and Revenue Secretariat | Mk File No. 66 of 1925

Serial No.

18

From the Deputy Comm Mysore
No. 0.C.904 dated 9-2-26.
Submits for orders the papers relating to the election of Mr. S. Basappa as Vice Pt with Chamarajanagar Town Municipal Council

1) The Chamarajanagar Municipal Council was re-constituted for a period of 3 years from 1st January 1926 in Notification dated 6th January 1926 and the election of its Vice President had to take place --- within one month from that date i.e., by 1st February 1926, as required by Clause (c) of Rule 1 of the Election Rules issued with Notification dated 28th February 1925.

Flag A

2) As required by the Proviso to Rule 1 of the - - said Rules a notice dated 12th January 1926 was - - - issued by the Taluk Sheristedar, the Amildar who was in charge of the Taluk and who was also the President of the Municipal Council of the Town, for the time being (within the meaning of the said proviso), that the election meeting would be held on 29th January 1926 for the election of the Vice President.

C

Flag E

3) Two candidates stood for election; but at the election meeting Mr. Dorasami Iyengar one of the --- candidates withdrew his candidature on the ground -- that the election proceedings were illegal for the reason that the notice issued by the Taluk Sheristedar the Amildar-President in charge of the Taluk was - - -

Flag A

opposed

NOTE.—Contn. Sheet

Serial No.

R

opposed to the explanatory ruling laid down in the Government order dated 1st September 1919.

4) Except the two Municipal Councillors including Mr. Iyengar, all the 9 Councillers present at the election meeting were in favour of holding the election and Mr. Sangana Basappa was elected as Vice President Under Rule 5 (a) and the validity of this election is contested by 3 Councillers under Rule 7 of the election Rules.

B.

Flag A.

5) The Deputy Commissioner reports that Sheristedar's action in having issued the notice convening the meeting was bonafide, regular, and was only to avoid an inpasse.

6) The main point for consideration is WHETHER THE CONTENTION THAT THE NOTICE ISSUED BY THE TALUK SHERISTEDAR AS THE AMILDAR-PRESIDENT IN CHARGE OF THE TALUK WAS ILLEGAL UNDER THE GOVERNMENT ORDER DATED 1ST - - September 1919 IS TENABLE.

R.

7) The G.O. of 1919 relates to an explanatory rule of procedure for conduct of work during the absence of Ex-Officio Presidents of Municipal Councils and direct that the Vice President of the Council may look after the President's duties during the period of such - - absence. It may therefore be argued that this order provides only for a case where there is a Vice President and not for situation like the present one where there is no Vice President. It may further be argued that this Government order, therefore, does not apply to the present case where there is no Vice President at all.

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Besides from the wording 'the President for the time being' occuring in the Proviso to Rule (1) of the election Rules, the Taluk Sheristedar who was in charge of the Taluk (at least may be deemed to have been so) was also Ex-officio "President (of the Municipal Council) for the time being" within the meaning of of the said proviso and if this view is correct the notice issued by him as President in charge of the Municipal Council, should be deemed as notice issued by the "President for the time being" and is therefore valid under the Rules.

9 Again, the election of the Vice President should have taken place by the 1st February 1926 as required by Clause (c) of Rule 1; the Amildar President was absent on leave though as a temporary measure but -- within the period of the one month during which the notice of election should have been given under that rule. The Sheristedar who was in charge of the Taluk during that period issued the notice and if he had done so, the election could not have taken place at all, as required by the rule. While the issue of the notice (which may be one of the functions of the President -- within the meaning of the Government Order 1919) by the Sheristedar in the present case, is in consonance with the provision of Clause (c) of the Rule (1) of the Rules it is opposed to the Government Order of 1919, provided the said Government order is to be deemed as applicable to the case. This seems to be an anomaly.

FOR THE REASONS THAT

1. The G.O. of 1919 does not provide for a situation

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situation where there is no Vice President as in the present case, does not seem to be applicable to it;

(2) Even if it is applicable, it is clearly in conflit with the wording "the President for the time being in Clause (c) of Rule 1 of the Rules;

(3) The Very Municipal Councillors who signed the notice issued by the Sheristedar and one of them - - Mr. Narayana Rao who submitted the required nomination paper to the Sheristedar in person on 21st January '26 as required by that notice, and actually attended the election meeting on 29th January 1926 at which (perhaps as a result of an after-thought and to take up the cause of Mr. Iyengar to secure the Vice Presidentship) he contested the legality of the notice in - - - question, have to be deemed as estopped from contesting the validity of such notice;

the notice issued by the taluk sheristedar, the Ex-officio President of Municipal Council has to be -- deemed as one issued by the "President for the time being within the meaning of the clause (c) of Rule 1 and as such has to be deemed as valid under the Rules.

If this view is correct:

1. The contention of Mr. Dorasami Iyengar and others is untenable;

2. Mr. Iyengar's withdrawal from candidature is only voluntary though under a (perhaps mistaken) misapprehension of the ruling on the point and the other candidate is only candidate nominated within the meaning of Rule 5 (a);

3. The election of Mr. Sangana Basappa is valid.

Submitted for orders.

tn. Sheet

2

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The irregularity complained of viz the Taluk Sheristedar signing the notice may not perhaps be considered as a material irregularity which would vitiate the election.

K
11/1/26

The irregularity alleged is that the notice issued for convening the meeting of the Muni Council for electing the Vice President was issued by the Sheristedar and not by the President i.e. Mr. B. Subba Rao was on leave and the Taluk Sheristedar was ordered to be in charge of the Taluk in addition to his own duties. (Pl: E)

Under the Rules (Pl: K) Rule 1. provides, the notice should be given by the President, or in his absence by the Vice President or in the absence of both by the Chief Executive officer. In this case the President was absent & there was no Vice President & so the Chief Executive officer could have issued the notice as was ordered in the case of election of Pres[t] & Vice Pres[t] of the Tumkur Muni[l] Council. (Pl: F)

The function of convening meetings is vested in the President. See section 26 of the Muni[l] Regs & no person other than a

WD 0:264—GPB.—40,000—17-12-28
App. F. III—2]

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President can do so.

The question raised in this case in the order above is whether the Sheristadar was not the President in virtue of his doing the duties of the Amildar. In this connection reference is invited to Sec. 87 of 1949 (M:R)

It is argued that the Sheristadar being in charge of the Taluk was also the Amildar President & that Sec. applies only to cases where there is a Vice Presidt.

To this point it must be said that the Sheristadar was not the amildar He was merely placed in charge. He was merely doing the current duties of the Amildar within the meaning of the Sec. of 1949 (M:R)

The 2nd point is also not tenable. It is clear from the order that it is not strictly correct for the Sheristadar to assume the duties of the Munsf President because he does the current duties of the Amildar. The order does not say that he can so act in the absence of a Vice President.

The O.C. relies on the bona fides of the Sheristadar to make his conduct Regular and also on the fact that the Sheristadar averted an injurious.

These facts will not validate

NOTE.—Contn. Sheet

Serial No.

7732
6/3

his exercise of functions by a person who is not statutorily empowered to so exercise

In the absence of the Pres[t] the Pres[t] his chief executive officer could have exercised the function of issuing a notice.

Another point raised viz of Estoppel. Cannot be maintained. For there can be no estoppel against a statute.

Submit for orders—

6/3
8/3
4/3
7/3

Dr Wh[t]:

Wish I have it typed

2. Please provide for such substitution or addition or amendment if still necessary.

9/3/26

9.3.

(1) A meeting not convened by Pres[t] is not legal. (See Cumming 5th ed p.87) Hence the Minister in charge cannot legally convene a meeting

(2) It may not be desirable to appoint a Minister as Pres[t] for the first

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Under the new Bill, the term of office of President & V. P. is made coterminous with the term of the Council, such cases as above may not occur. Hence no amendment seems necessary.

Please issue orders as per formers

7935/13/3

17/3

15/3

A revised draft is put up

27/3

21-3

1/4

19 d 6369 d. 7/4/36
The Dy Comm of ... requests that a fresh election may be held ... e.c.

App. R. (1H—21)

WD 0000—GPS—40,000—41-7-21

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Notes—Contn. Sheet

5797

From

THE DEPUTY COMMISSIONER,
MYSORE DISTRICT,
MYSORE.

To

THE SECRETARY
TO THE GOVERNMENT OF MYSORE,
Local & Legis. Departments,
BANGALORE.

Dated 7/ 9th February 1926.

Despatched

ived

General No. O.C.964/25-26.Rev.
No.

Enclosure No

Submits file of papers and the objection petition, for orders, re the reconstitution of the Town Municipal Council of Chamarajanagar

No. O.C.964/25-26.Rev.

Office of the Deputy Commissioner, Mysore District,

Dated Mysore. 7th February 1926.

FROM

A.V. Ramanathan, Esq.,B.A.,
Deputy Commissioner, Mysore District,
Mysore.

To

B. Nagappa, Esq.,Bar-at-Law.,
Secretary to the Government of His Highness
the Maharaja of Mysore, Bangalore.
Local & Legis.Departments.

SIR.

With reference to Government Notification No.4865/ Ml.19-25-24 dated the 6th January 1926, sanctioning the reconstitution of the Town Municipal Council of Chamarajanagar, I have the honor to state that action was taken for the election of a non-official Vice President to the reconstituted council. The marginally noted candidates stood for election. (i)

Mr. Sanganabasappa &
" Doraswami Iyengar.

2. Eleven out of the 12 non-official members were present. Mr. C.D. Narayana Rao, one of the elected members raised an objection to the election proceedings on the ground that the notice of the meeting sent for circulation among the members was issued under the signature of the Taluk Sheristedar on 12-1-1926, that as per the Government Proceedings No.R.2952-62/Ml.17-19-10 dated 1st September 1919 such a procedure was illegal, and that a fresh election might therefore be held. (ii)

3. The Amildar and Exofficio President of the Council being absent on leave and there being no Vice President in existence at the time, the Council having been newly constituted, the Taluk Sheristedar who was in charge of the Taluk issued the above notice. (iii) Government have in their Order No. L.6343/Ml.56-24-233 dated 28-2-1925,directed that in the case of a reconstituted council the meeting for the election of a Vice President should be not later than (iv)

one month from the date of reconstitution. In the present case, the reconstitution came into effect from 1st January 1926 and it was quite necessary under the terms of the above Government Order that a meeting should be held before the end of that month, viz., January. The Taluk Sheristedar's (iii) action in having issued the notice convening the meeting was bona fide and in my opinion regular. But it is reported that Mr. Doraswami Iyengar withdrew from candidature on the ground of this irregularity.

4. An application signed by three Councillors namely Mr. C.D. Narayana Rao, Mr.Doraswami Iyengar and Mr.Mayanna Gowda, contesting the validity of the election, was presented (iv) to my office on 4th February 1926, for setting aside the election on account of the irregularity in the issue of the notice of the meeting by the Taluk Sheristedar. It is reported that with the exception of Messrs. C.D.Narayana Rao and Doraswami Iyengar, all the other members that were present at the meeting were in favour of the election proceedings being (vii) conducted and that Mr. Sanganabasappa was therefore elected as Vice President.

5. While I consider that the Taluk Sheristedar acted with a view to avoid an impasse I find that the Government Order of (viii) 1st September 1918 is also clear and definite in so far as it does not recognise any substitute for the exofficio President excepting the Vice President.

But it is possible to argue that the said Government Order does not provide for a situation like the present one (ix) when there is no Vice President.

I therefore submit the papers for the orders of the Government in accordance with para 10 of the Government Notification dated 28th February 1924. (x)

6. The entire file of vernacular correspondence ending with the President's report No.419 dated 30th January 1926 and the objection petition are enclosed for kind perusal.

I have the honor to be,

Sir,

Your most obedient servant,

Personal assistant

for Deputy Commissioner,

Mysore District.

Absent from head Quarters

A.N.

G. R. S. VI—G/32]

SUBJECT .....

.....

.....

Diary No. of letter replied to .....

General and Revenue Secretariat

( )

, *the* 192

Date of issue 4/12

Signed by .....

Section Ind

File No. 66-25

Serial No. 19

No. L 6369

(For Secretary)

To

The Deputy Commissioner, Kurnool

Sir,

With reference to your letter No. Ge 564/25-26 dated 3rd/4th February 1926 forwarding for orders, the papers connected with the proceedings held for the election of a Vice President to the Municipality of Nandyal, I am directed to state as follows.

Under the rule in force, the notice for the meeting held for the election of a President or Vice President has to be given by the President or Vice President or in his absence, by

WD 6333—G.P.S.—1000—14-9-25

List of enclosures.

Copied by

Examined by